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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,115	10/31/2003	Sung-Soo Chae	11038-103-999	4992
24341	7590	09/09/2005	EXAMINER	
MORGAN, LEWIS & BOCKIUS, LLP. 2 PALO ALTO SQUARE 3000 EL CAMINO REAL PALO ALTO, CA 94306			AVERY, BRIDGET D	
			ART UNIT	PAPER NUMBER
			3618	

DATE MAILED: 09/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

*JL*

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/699,115	CHAE, SUNG-SOO	
	<b>Examiner</b>	<b>Art Unit</b>	
	Bridget Avery	3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 31 October 2003.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-8 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-8 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 31 October 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
2. In claim 6, the phrase "an axis extending between said insertion holes when respectively received on said resilient said muffler side connecting pins and said body side connecting pins is about 30 to 60 degrees above horizontal" is confusing rendering the claim indefinite.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3 and 6-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Ammar (US Patent 4,643,458).

Ammar teaches a fixing device for an automobile muffler (10) similar to applicant's including:

- ❖ Muffler side connecting means (note innermost holes with pins/bolts)

- ❖ Car body side connecting means (note outermost holes with pins/bolts)
- ❖ The distance between the car body side connecting means is longer than that of the muffler side connecting means
- ❖ A resilient hanger (34) positioned between the muffler side connecting means and the car body side connecting means
- ❖ The muffler side connecting means including two muffler connecting pins/bolts
- ❖ The muffler connecting pins are fixed at the muffler via a cover bracket (20)
- ❖ The body side connecting pins are coupled underneath the automobile and fixed to a surface of a body side bracket
- ❖ The resilient hanger (34) defines insertion holes (36)
- ❖ With respect to claim 6, as best understood, an axis extending between the insertion holes (36) is about 30 to 60 degrees above horizontal and is about 45 degrees above horizontal

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Layson (US Patent 4,615,500).

Layson teaches a fixing device for an automobile muffler (10) similar to applicant's including:

- ❖ Muffler side connecting means (note innermost holes 32 with pins/bolts)
- ❖ Car body side connecting means (note outermost holes 30 with pins/bolts)
- ❖ The distance between the car body side connecting means is longer than that of the muffler side connecting means
- ❖ A hanger (44) positioned between the muffler side connecting means and the car body side connecting means
- ❖ The muffler side connecting means including two muffler connecting pins/bolts (48)
  - ❖ The muffler connecting pins (48) are fixed at the muffler via a cover bracket (52)
  - ❖ The cover bracket (52) is coupled around a connecting part of an exhaust pipe (42) of the muffler
  - ❖ The cover bracket (52) is formed with a vertical flange surface toward the front of the automobile and the muffler side connecting pins are fixed to the vertical flange surface, protruding toward the front of the vehicle
- ❖ The body side connecting pins are coupled underneath the automobile and fixed to a surface of a body side bracket (34)
- ❖ The hanger (44) defines insertion holes (46)
- ❖ An axis extending between the insertion holes is about 30 to 60 degrees above horizontal and is about 45 degrees above horizontal

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- ❖ Re the resilient hanger recited in claim 1, Layson teaches a bendable bracket in column 2, line 5.

Layson lacks the teaching of a resilient hanger.

The bendable bracket taught in column 2, line 5, is an equivalent structure known in the art. Therefore, because these two resilient members were art-recognized equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to substitute the bendable bracket for a resilient hanger.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

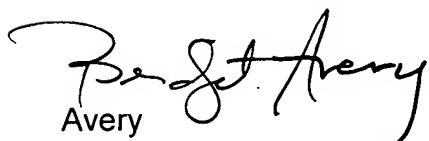
Olsen et al. shows a muffler-to-cab isolation mounting assembly.

Divilio et al. shows a multiple piece catalytic converter flange.

Pereault shows a muffler assembly for snowmobiles.

Engman et al. shows a universal muffler and tail pipe holding bracket.

6. Any inquiry concerning this communication should be directed to Bridget Avery at telephone number 571-272-6691.

  
Bridget Avery

September 6, 2005

  
J.P. Eberle